

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOSEPH TYLER YAGER,

Petitioner,

v.

Case No. 2:07-cv-101
HON. R. ALLAN EDGAR

BARRY DAVIS,

Respondent.

_____ /

MEMORANDUM AND ORDER

_____ Petitioner Joseph Tyler Yager (“Yager”) filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The habeas petition was referred to Magistrate Judge Timothy P. Greeley for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and W.D. Mich. LCivR 72.1(d).

On December 4, 2008, the Magistrate Judge submitted his report and recommendation. [Doc. No. 19]. The Magistrate Judge recommends that the habeas petition be denied. Petitioner Yager has not timely filed an objection to the report and recommendation.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). The Court concludes that the habeas petition is without merit for the reasons expressed in the report and recommendation. The petition for writ of habeas corpus brought under 28 U.S.C. § 2254 shall be **DENIED and DISMISSED WITH PREJUDICE.**

If petitioner Yager files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b)(1) because the Court finds that he has not made a substantial showing of the denial of a federal constitutional right.

A separate judgment will enter.

SO ORDERED.

Dated: January 22, 2009.

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE
